

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By **CHAIRMAN BILL GLASER**, on January 8, 2003 at 3:00 P.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Sen. Bill Glaser, Chairman (R)
Sen. Bob Story Jr., Vice Chairman (R)
Sen. Jerry W. Black (R)
Sen. Mike Cooney (D)
Sen. Jim Elliott (D)
Sen. Royal Johnson (R)
Sen. Jeff Mangan (D)
Sen. Tom Zook (R)

Members Excused: Sen. Ed Butcher (R), Sen. Don Ryan (D)

Members Absent: None.

Staff Present: Tari Elam, Committee Secretary
Connie Erickson, Legislative Services

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 41, 1/8/2003; SB 42,
1/8/2003; SB 43, 1/8/2003
Executive Action: SB 41; SB 42; SB 43

HEARING ON SB 41

Sponsor: SENATOR JOSEPH TROPILA

Proponents: Steve Gettel, Superintendent, Montana School for the Deaf and Blind (MSDB)
Darrell Rud, Executive Director, School Administrators of Montana, *in absentia*

Opponents: None

Informational Witnesses: None

Opening Statement by Sponsor:

SENATOR JOSEPH TROPILA, SD 24, Great Falls, stated the purpose of this bill is to change the legislative designation of the Montana School for the Deaf and Blind from an "independent institution" to a "state supported special school." **SEN. TROPILA** indicated the change more accurately reflects the goals and activities of the school.

Proponents' Testimony:

Steve Gettel, Superintendent, MSDB, discussed the correlation between **House Bill 59**, a bill which attempts to accomplish the same goal in the House, and this bill, indicating the change provides the public with a more appropriate understanding of the purpose of the school.

CHAIRMAN GLASER announced on behalf of **Darrell Rud** and the School Administrators of Montana that they are in support of the revised designation indicated in **SB 41**. See letter of January 7, 2003 **EXHIBIT (eds03a01)**.

Questions from Committee Members and Responses:

SENATOR JOHNSON inquired of **Mr. Gettel** as to the meaning of his reference to **HB 109**. **Mr. Gettel** indicated the terminology change in **SB 41** is of the type intended to be addressed by the proposed **HB 109** [a bill the purpose of which is to eliminate various "OBSOLETE, REDUNDANT, CONTRADICTORY, CONFUSION, OR UNCONSTITUTIONAL," language contained in the Montana Statutes]. Changing the legislative designation from "institution" to "special school" provides a more accurate reflection of the goals and activities of the school.

SENATOR TOM ZOOK, asked **Mr. Gettel** whether the change in designation would affect the status of the school's employees; **Mr. Gettel** replied in the negative.

CHAIRMAN GLASER inquired whether the School Board was aware of the proposal. **Mr. Gettel** replied that each of the bills being heard today were previously submitted to, and approved by, the Board of Public Education in September 2002.

Sponsor's Closing:

SEN. TROPILA gave a brief overview of the history of MSDB including information regarding the nature of the school; citing specifically, that this is a 24 hour facility which provides both care for and education of sensory impaired children.

HEARING ON SB 42

{Tape: 1; Side: A; Approx. Time Counter: 7.8 - 23}

Sponsor: **SENATOR JOSEPH TROPILA**

Proponents: **Steve Gettel, Superintendent, Montana School for
the Deaf and Blind (MSDB)**

Marilyn Pierson, OPI

Darrell Rud, Executive Director, School

Administrators of Montana, *in absentia*,

EXHIBIT (eds03a02)

Opponents: **None**

Informational Witnesses: **None**

Opening Statement by Sponsor:

SEN. TROPILA began by requesting the bill be amended as noted in **EXHIBIT (eds03a03)**, with language more closely aligned to the goals of the legislation. He then explained the purpose of the bill is to allow for the creation of a tracking system that provides a complete history of the services received by each child from the time of impairment identification until such time as the child exits various programs.

Proponents' Testimony:

Steve Gettel explained the background of the bill, indicating that some type of registry for sensory impaired children is

desirable and necessary for providing the children with the most appropriate intervention services. Further, early identification and intervention allows for public schools to be more prepared--ensure adequate teaching staff and outreach services are available, for example.

Mr. Gettel also explained the database allows for the tracking of children, not services. This will allow various school districts within the state to have information readily available regarding the history and needs of a particular child. He also pointed out that the process is compliant with the Family Educational Rights and Privacy Act of 1974; i.e., no information will be released without the express consent of the child's respective parent.

Marilyn Pierson, Assistant Director of Special Education, OPI, conveyed her agency's support of **SB 42**. **Ms. Pierson** indicated the benefits of the tracking system for public education include the ability to adequately prepare for the special needs of sensory impaired children with regard to staff training and staffing levels, and the allocation of other resources. She also hopes the system will encourage parents of identified children to access services at an early age. Early intervention, said **Ms. Pierson**, is particularly beneficial to hearing impaired children between the ages of birth and three because that is when a child's language patterns are most amenable.

Questions from Committee Members and Responses:

SENATOR BOB STORY inquired of **Mr. Gettel** as to what, in the absence of the statute, would prevent the school from accumulating this information anyway. **Mr. Gettel** responded that although the information is potentially available through an interagency agreement with the Department of Health and Human Services, he sees the need for it to be a purpose of the school. Whether the focus of the school changes over time or not, if tracking sensory impaired children is a statutorily defined obligation of the school, there will be no possibility for an informational lapse in the future.

SEN. STORY then posed his concern regarding terms of legislation which seem to create a mandate for the school without providing appropriate funding. He asked **Mr. Gettel** about the possibility of that happening in this instance. **Mr. Gettel** responded that although there may be some need in the future for additional staff in connection with relevant growth, the school is already

collecting the information on an informal basis. The directive would simply make the program already in place a part of the school's purpose. This, indicated **Mr. Gettel**, would also provide other agencies with notice that relevant information may be obtained from the school.

SENATOR JIM ELLIOTT asked **Mr. Gettel** about the universal infant screening program. **Mr. Gettel** explained that newborns are tested for possible hearing deficiency before leaving the hospital; if loss is detected a follow up screening is scheduled. **SEN. ELLIOTT** then asked about the effects of an infant not receiving intervention services. **Mr. Gettel** responded by referring to a study completed by the University of Colorado indicating that children identified and served early in life were at or close to grade level in reading, while those who were identified between the ages of two and three experienced difficulties in reading once they reached grades three or four. **Mr. Gettel** continued, explaining about the importance of stimulating and developing the communication abilities of a child after the first year of birth and pointed out the parallel interests of sight impaired children.

SENATOR JEFF MANGAN inquired as to whether his understanding regarding identification and tracking as being the standard methodology for similar programs is correct. **Mr. Gettel** replied that similar programs are in place in other states; some are operated by residential programs, other by the state school system.

SENATOR JERRY BLACK inquired whether this program wouldn't be very labor intensive requiring a lot of supervision over staff members; i.e., the time required of staff on the task of tracking and that time necessary for teaching them how to do so. **Mr. Gettel** replied that although there may be some required reallocation of time in order to insure the most current information regarding a particular child is available, the majority of the information is already in place. It should, therefore, not be a major problem. **SEN. BLACK** then asked whether **Mr. Gettel** thought the goals of the proposed directive could be met within the constraints of the current budget. **Mr. Gettel** replied in the affirmative.

SENATOR BOB STORY sought clarification on terminology contained in lines 24 and 25 of the bill; specifically, when does a "child's exit from intervention or educational services" occur? **Mr. Gettel** replied that typically for children in the public

school system this occurs at 18 when the child graduates from high school. For children whose impairment may not be so severe as to allow identification by a child study team at the age of three, exit may occur at that time.

Sponsor's Closing Statement:

SEN. TROPILA thanked the Senators for their questions.

HEARING ON SB 43

Sponsor: SENATOR JOSEPH TROPILA

Proponents: Steve Gettel, Superintendent, Montana School for the Deaf and Blind (MSDB)
Bill Sykes, MSDB
Terry Minow, MEA-MFT
Darrell Rud, Executive Director, School Administrators of Montana, *in absentia*
Bob Vogel, Montana School Boards Association, *in absentia*

Opponents: None

Informational Witnesses: None

Opening Statement by Sponsor:

SENATOR TROPILA indicated the purpose of this bill, through its proposed modifications in terminology, changes "fee for services" from mandatory to optional. **SEN. TROPILA** indicated the changes are necessary to ensure that sensory impaired children in the state of Montana receive the free and appropriate educational services as mandated by the Education for All Handicapped Children's Act of 1975.

{Tape: 1; Side: B; Approx. Time Counter: 2.5 - 23}

Proponents' Testimony:

Bill Sykes, Business Manager, MSDB, introduced himself and indicated that he will be pleased to answer any questions the Committee Members might have regarding the fiscal note attached to **SB 43**.

Steve Gettel, Superintendent, MSDB, indicated the reason for the suggested statutory modification [from shall to may] is because many schools may not utilize the services offered by the school. The rural nature of Montana makes the provision of required services a difficult prospect. The staff of MSDB has the ability to assist large and small districts alike in planning, education of staff, and so forth. However, many of these schools may not have funds available to pay for these services without reducing funding to other program(s). This places the particular school, and consequently any child enrolled there, at a real disadvantage. Specifically, **Mr. Gettel** noted that of the school administrators contacted by him regarding this topic, over half indicated special education costs were already approximately fifty percent (50%) of the general budget, so any charge would necessarily require the money be taken from some other program.

Terry Minow, MEA-MFT, testified that her organization is in support of this bill because it is a good bill for kids and for schools. **Ms. Minow** also conveyed the support of **Montana School Boards Association** of behalf of **Bob Vogel**.

Darrell Rud, Executive Director, in abstentia, submitted written testimony in support **EXHIBIT**(eds03a04).

Questions from Committee Members and Responses:

SENATOR JOHNSON asked **Mr. Gettel** about the costs to **MSDB's** budget that would be associated with this particular legislation. **Mr. Gettel** deferred to **Mr. Sykes** who indicated that, although he did not have the exact figures with him, it would be in the neighborhood of \$250,000 to \$300,000. This figure represents the cost of employing five outreach consultants; three for the blind, two for the deaf. **Mr. Sykes** also explained that only four districts in the state are large enough to employee their own staff for this purpose; yet, they are the only districts paying the fee. **MSDB** does provide technical assistance to those districts; however, it is the smaller districts which are truly in need of **MSDB's** expertise.

SEN. JOHNSON expressed his support of the legislation, but also noted that this does supplement OPI's budget. **Mr. Sykes** replied **SEN. JOHNSON's** observations with regard to the outreach program were correct.

SENATOR ZOOK sought clarification on the definition of a "reasonable fee" from **Mr. Sykes**. **Mr. Sykes** explained that the fee must be an amount sufficient to cover costs. **Mr. Sykes** also explained that over time, there has been a transition away from reliance on **MSDB** in certain areas--i.e., book orders--toward being able to do this in house.

SEN. ZOOK pointed out the fiscal note indicates there are no costs associated with this change in legislation; however, he failed to see how that could be correct. **Mr. Sykes** indicated that **MSDB** is currently funded for technical services provided to districts, but noted any requests for services beyond that directive will have to be borne by the requesting school.

SEN. ZOOK sought clarification on the number of consultants and students being served. **Mr. Sykes** responded there are presently three consultants assisting 170 blind children, and two consultants working with 100 deaf children.

SENATOR MANGAN asked **Mr. Gettel** about an audit report that directed the school to begin charging the fee regardless of circumstances. **Mr. Gettel** responded that **SEN. MANGAN's** understanding was correct.

SEN. MANGAN then inquired whether, under federal law, each district would be legally obligated to provide services to these children even in the absence of **MSDB**. **Mr. Gettel** responded that **SEN. MANGAN's** understanding is correct, but pointing out that many of the districts are able to comply with federal law because of the technical services provided by **MSDB**.

SEN. JOHNSON requested **SEN. TROPILA** consider the elimination of line 22 of the bill.

Sponsor's Closing Statement:

SEN. TROPILA first addressed the comment of **SEN. JOHNSON** regarding line 22 of the bill, noting that as a conceptual amendment he is not opposed to its being stricken. He thanked the Committee for their time, various persons for their support, and invited all those present to visit **MSDB**.

EXECUTIVE ACTION ON SB 41

Motion/Vote: **SEN. COONEY** MOVED SB0041.01 DO PASS. The motion CARRIED 10-0, with **SEN. RYAN** voting via proxy to **CHAIRMAN GLASER** and **SEN. BUTCHER** voting via proxy to **SEN. STORY**.

EXECUTIVE ACTION ON SB 42

Motion: **SEN. JOHNSON** moved SB04201.ace and moved SB 42 DO PASS AS AMENDED.

Discussion:

SEN. STORY expressed concerns over what may be perceived as a mandate without funding and how that may return as a future issue.

Vote: Motion carried 10-0.

EXECUTIVE ACTION ON SB 43

Motion/Vote: **SEN. JOHNSON** moved SB 43. **SEN. MANGAN** moved SB04301.ace. The motion carried 9-1, with **SEN. STORY** voting no.

SEN. COONEY moved SB43 AS AMENDED. The motion carried unanimously.

CHAIRMAN GLASER announced there will be a Joint Meeting on Education Funding, Friday, January 10, during the regular meeting time. He encouraged Committee Members to attend the meeting.

ADJOURNMENT

Adjournment: 4:30 P.M.

SEN. BILL GLASER, Chairman

TARI ELAM, Secretary

BG/TE

EXHIBIT (eds03aad)